

House Daily Reader

Thursday, January 28, 1999

[illegible]

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

552C0141

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO.

HB1014 - 1/26/99

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
State Brand Board

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the regulation,
2 inspection, and transportation of livestock.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 40-18 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The brand board shall provide for the registration of livestock brands, for the inspection of
7 livestock for ownership identification purposes, and for the enforcement of laws pertaining to
8 the inspection, sale, branding, ownership, transportation, and theft of livestock within the
9 ownership inspection area and the state.

10 Section 2. That § 40-19-4 be amended to read as follows:

11 40-19-4. Any person desiring to use or adopt any recordable brand for livestock ownership
12 identification purposes shall make and sign an application setting forth a facsimile ~~and description~~
13 of the brand desired and file the application for registration in the office of the board.

14 Section 3. That § 40-19-5 be amended to read as follows:

15 40-19-5. ~~Priority of any person's application shall give preference right for the registration~~

1 ~~of any certain brand. Each brand registered shall be given an official number which shall be~~
2 ~~consecutive. An application for a registered brand shall be submitted on a form provided by the~~
3 ~~board. Applications shall be processed in the order of their receipt and the applicant shall be~~
4 ~~notified if the brand is recordable and of the fees due for registration.~~

5 Section 4. That § 40-19-6 be amended to read as follows:

6 40-19-6. ~~The board shall file all applications for registry or rerecording in the order of their~~
7 ~~receipt and, if the brand is recordable, issue a certificate therefor. Ownership shall date from the~~
8 ~~date of registration. If the brand is recordable, the board shall register the brand upon payment~~
9 ~~of the required fees and shall issue a certificate of registration. Ownership of a brand begins on~~
10 ~~the date of registration.~~

11 Section 5. That § 40-20-13 be repealed.

12 ~~—40-20-13. Any person who transports by commercial motor carrier, truck or tractor,~~
13 ~~livestock that have not had an ownership inspection as provided by the board from any point~~
14 ~~within the livestock ownership inspection area to any other point within the livestock ownership~~
15 ~~inspection area shall have in his possession a bill of lading at all times while transporting the~~
16 ~~livestock. The authorized bill of lading shall be approved by the board. The bill of lading shall~~
17 ~~contain the name of the driver and operator of the motor vehicle, the name of the owner of the~~
18 ~~livestock, the number of head, kind of livestock, sex, brands or marks, if any, the date of~~
19 ~~transportation, the name of the owner of the motor vehicle and its license number, the place of~~
20 ~~origin of the shipment with the county and address of loading point, and the destination of the~~
21 ~~shipment and the person, firm or corporation to whom consigned.~~

22 Section 6. That § 40-20-15 be repealed.

23 ~~—40-20-15. It is a Class 2 misdemeanor for a person to have his livestock transported, or for~~
24 ~~any carrier to transport livestock, as provided in § 40-20-13, without first having prepared and~~
25 ~~completed the bill of lading provided for in § 40-20-13, and both the consignor and carrier shall~~

1 ~~have signed such bill of lading, if such bill of lading is required.~~

2 Section 7. That § 40-20-18 be amended to read as follows:

3 40-20-18. Any person in charge or control of any motor vehicle transporting any livestock
4 from any point within the livestock ownership inspection area shall, upon demand of any state
5 law enforcement officer, exhibit to ~~such~~ the officer ~~his bill of lading to transport such livestock~~
6 ~~or his authorization, whichever may be required as provided in §§ 40-20-7 and 40-20-13 or~~
7 ~~pursuant to rule. However, the possession of a local ownership inspection certificate or a~~
8 ~~livestock market clearance shall be accepted in lieu of a bill of lading or authorization~~ as required
9 pursuant to § 40-20-4. It is a Class 2 misdemeanor for any person not to be in possession of a
10 ~~bill of lading or authorization if such possession is required pursuant to~~ such authorization if
11 required by the provisions of this section.

12 Section 8. That § 40-20-24 be amended to read as follows:

13 40-20-24. Any law enforcement officer may require any person transporting livestock to stop
14 any vehicle transporting such livestock for the purpose of examination and inspection of the ~~bill~~
15 ~~of lading, authorization, shipper's agreement~~ shipper's permit, local ownership inspection
16 certificates, livestock market clearances, bills of sale, brands, marks, or other means of
17 identification. The law enforcement officer may demand any such person to unload such
18 livestock at the nearest suitable location for further inspection and examination.

19 Section 9. That § 40-21-12 be amended to read as follows:

20 40-21-12. If the seller described in § 40-21-10 or 40-21-11 fails to establish ownership of any
21 livestock, the livestock shall be held or sold. If the livestock are held, disposition by the board
22 shall be made. If sold, the selling agent ~~who sells such livestock shall hold the proceeds of the~~
23 ~~sale, and selling agent is financially responsible for the proceeds, of such livestock until such time~~
24 ~~as the board orders the money with account of sale, released to the owner or to the South~~
25 ~~Dakota livestock ownership inspection and theft prevention fund~~ is financially responsible for the

1 proceeds of the sale and shall hold the proceeds until the board orders the money, along with
2 account of sale, released to the livestock owner or to the South Dakota livestock ownership
3 inspection fund. Such financial responsibility may be enforced by civil suit brought by the board.
4 If the inspector finds livestock carrying a recorded brand which is not the property of the
5 consignor and is not accompanied by a proper bill of sale, affidavit of ownership, or livestock
6 market clearance, ~~he shall mark his tally~~ the inspector shall designate the livestock as, Hold. The
7 ~~inspector has the discretion to may~~ inspector shall sell or hold the livestock; and if sold, the selling agency shall
8 hold the proceeds from the sale for sixty days or until the consignor ~~can establish~~ establishes
9 evidence of ownership to the inspector, whichever comes first. All livestock holds after sixty
10 days shall be forwarded by the inspector to the board for review and final disposition, which may
11 include clarification, settlement, or payment related to proper ownership ~~by the inspector to the~~
12 ~~board for review and final disposition.~~ If a hold has been placed on the proceeds, it is a Class 1
13 misdemeanor for the selling agent or selling agency to disburse the proceeds to the seller or
14 consignor before the board has cleared the hold for release.

15 Section 10. That § 32-2-8.1 be amended to read as follows:

16 32-2-8.1. Arrest powers for motor carrier inspectors employed by the Division of Highway
17 Patrol are limited to violations of chapters 10-47A, 32-5, 32-9, 32-10, 32-12, 32-22, 40-19, 40-
18 20, 40-21, 49-28, and 49-28A and §§ 50-4-13 to 50-4-17, inclusive, and the rules governing
19 operation of motor carriers. Motor carrier inspectors who have been given such limited arrest
20 powers are not considered law enforcement officers for the purposes of § 23-3-27.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Agriculture and Natural Resources. H.J. 34

3 1/26/99 Scheduled for Committee hearing on this date.

4 1/26/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 12, NAYS 0.

5 H.J. 184

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

159C0269

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1015** - 1/20/99

Introduced by: The Committee on Local Government at the request of the State Board of Elections

1 FOR AN ACT ENTITLED, An Act to revise certain election procedures for the formation of
2 certain special districts and the election of directors, managers, or trustees.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 A landowner for the purposes of chapter 6-16 means any person who owns property, as
7 defined pursuant to § 10-4-2 or 10-9-1, within the special district and is listed as an owner of the
8 property by the register of deeds. A partnership, association, cooperative, trust, limited liability
9 company, or corporation may by resolution appoint one person to vote in a special district
10 election on behalf of the partnership, association, cooperative, trust, limited liability company,
11 or corporation. A person who has purchased property under a contract for deed which is of
12 record in the office of the register of deeds in the county where the real property is situated is
13 entitled to vote in the special district election and the seller of the property under a recorded
14 contract for deed may not vote. No person, partnership, association, cooperative, trust, limited
15 liability company, or corporation may vote more than once in any special district election.

16 Section 2. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Sections 3 to 6, inclusive, of this Act apply to elections of the board of directors, managers,
3 or trustees for certain special districts. The special districts covered are county road, ambulance,
4 rural fire protection, watershed, and water project districts.

5 Section 3. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Each special district shall conduct an election during the annual meeting to replace any
8 director, manager, or trustee whose term has expired. The district clerk or secretary is designated
9 as the person in charge of the election and shall conduct the election on behalf of the district. The
10 notice of election shall be published pursuant to the time frames established in § 6-16-4.
11 However, the notice for a water project district shall include information on any project reserve
12 fund established by the water project district pursuant to § 46A-18-57.1.

13 Section 4. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 The district president or chair shall call the landowners present at the annual meeting to
16 order. The person in charge of the election shall select and appoint three landowners of the
17 district to serve as election deputies, who shall be duly sworn and shall conduct the district's
18 election. The voters in attendance at the annual meeting shall nominate each person to be elected.

19 Section 5. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 An election deputy shall keep a poll list by entering the name of each person who votes. A
22 single ballot shall be distributed to each voter upon which votes may be cast for each office to
23 be elected. Each voter shall fold the ballot to conceal the contents and deliver the ballot to an
24 election deputy. The election deputy shall deposit the ballot in a box provided for that purpose.

25 Section 6. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 At the close of the election, the election deputies shall publicly count the votes. After the
3 counting is commenced, the counting shall continue without adjournment or interruption until
4 completed. The count shall be conducted according to the procedures for the tabulation of paper
5 ballots as provided in the general election procedures in chapter 12-20. The person who has the
6 highest number of votes for any office is elected. If two or more persons have an equal and the
7 highest number of votes for any office, the election deputies shall at once publicly determine by
8 lot which person is elected. After the count has been completed, the secretary shall enter a
9 statement of the result in the minutes and publicly read the results at the meeting. The reading
10 shall be deemed notice of the result of the election.

11 Section 7. That § 6-16-2 be amended to read as follows:

12 6-16-2. The application for organization shall be a petition verified by one or more
13 circulators by affidavit stating that each affiant personally witnessed the signatures on the petition
14 and believe the signatures to be genuine. The petition shall be signed by at least twenty-five
15 percent of the landowners within the proposed district ~~who are also registered voters within the~~
16 ~~district~~. If the proposed district is in two or more counties, a petition shall be filed in each county
17 and each petition shall be signed by at least ~~twenty~~ twenty-five percent of the landowners within
18 the proposed district ~~who are also registered voters within the proposed district in that county~~.
19 The petition shall be accompanied by a deposit covering the estimated costs as determined by
20 the county auditor of the public notices and the conduct of the election for the formation of the
21 district.

22 Section 8. That § 6-16-4 be amended to read as follows:

23 6-16-4. The county auditor shall publish the notice ~~of the voter registration deadline at least~~
24 ~~once each week for two consecutive weeks, the last publication to be not less than twenty-five~~
25 ~~nor more than thirty days prior to the election. The auditor shall publish notices of election at~~

1 least once each week for two consecutive weeks, the last publication to be not less than four nor
2 more than ten days before the election in a legal newspaper or newspapers of general circulation
3 in the proposed district.

4 Section 9. That § 6-16-6 be amended to read as follows:

5 6-16-6. A person who is a landowner in the proposed district ~~and is registered to vote in the~~
6 ~~proposed district~~ may vote in the elections provided for in § 6-16-5. However, the qualifications
7 of a voter for irrigation district elections are provided in chapter 46A-4. ~~Absentee voting is~~
8 ~~allowed~~ A person who is a landowner in the proposed district may vote absentee pursuant to
9 chapter 12-19 for the election on the question of formation of the special district.

10 Section 10. That § 6-16-7 be amended to read as follows:

11 6-16-7. If there is a conflict regarding who has a right to vote in the election pursuant to §§
12 6-16-4 to 6-16-6 and sections 1 to 6, inclusive, of this Act, the judges of election shall settle the
13 conflict by referring to the official records of the register of deeds ~~and county auditor~~ in each
14 county where these official records are held.

15 Section 11. That § 31-12A-3 be amended to read as follows:

16 31-12A-3. Any landowner who owns land lying within the limits of the territory proposed
17 to be organized into a district may file a petition with the board of county commissioners asking
18 that a road district be organized to function in the territory described in the petition. The petition
19 shall set forth:

- 20 (1) The proposed name of the district;
- 21 (2) That there is need for road work in the territory described in the petition;
- 22 (3) A description of the territory proposed to be organized as a district; and
- 23 (4) A request ~~that the board of county commissioners define the boundaries for the~~
24 ~~district;~~ that a referendum be held within the territory ~~so defined~~ on the question of
25 the creation of a road district in the territory; ~~and that the board determine that such~~

1 a district be created.

2 Section 12. That § 31-12A-13 be repealed.

3 ~~31-12A-13. The board of county commissioners is authorized to expend funds of the county,~~
4 ~~in the manner and to the extent permitted by law for other county expenditures, in the payment~~
5 ~~of necessary costs of preparation of petitions, surveys, maps, and applications submitted under~~
6 ~~the provisions of this chapter, and of the holding of elections on the incorporation of road~~
7 ~~districts hereunder. The county board is also authorized to accept and expend any funds~~
8 ~~appropriated to the State Department of Transportation and allocated by that department to the~~
9 ~~county for these purposes.~~

10 Section 13. That § 31-12A-15 be amended to read as follows:

11 31-12A-15. ~~In every~~ Each road district shall hold an annual ~~election of officers shall be held~~
12 meeting on the first Tuesday after the anniversary date of the first election ~~at such place in the~~
13 ~~district as the board of trustees shall designate. Such election shall be conducted according to~~
14 ~~chapter 9-13.~~

15 Section 14. That § 31-12A-17 be amended to read as follows:

16 31-12A-17. ~~The trustees~~ Each trustee to be elected at the initial election; shall be nominated
17 by the voters in attendance at the meeting in which the organizational election is held. ~~Any~~
18 ~~trustee to be elected at subsequent elections, shall be nominated by filing with the district clerk~~
19 ~~not less than fifteen days before any subsequent election, certificates of nomination for the offices~~
20 ~~of trustee. The certificates shall be in writing and shall contain the name of the candidate,~~
21 ~~residence, business address, and the office for which the candidate is named, and shall be signed~~
22 ~~by at least five percent of the qualified voters.~~

23 Section 15. That § 34-11A-28 be amended to read as follows:

24 34-11A-28. The boundaries of any ambulance district organized under the provisions of this
25 chapter may be changed in the manner prescribed by §§ 34-11A-4 to ~~34-11A-10~~ 34-11A-8,

1 inclusive, ~~but. However,~~ the ~~changes~~ change of boundaries of ~~any such a~~ district may not impair
2 or affect ~~its~~ the district's organization or ~~its~~ right in or to property; nor may it the change of
3 boundaries impair, affect, or discharge any contract, obligation, lien, or change for or upon which
4 ~~it might~~ the district may be liable had ~~such~~ the change of boundaries not been made.

5 Section 16. That § 34-11A-29 be amended to read as follows:

6 34-11A-29. A regular meeting of the ~~registered voters who are residing within the boundaries~~
7 landowners of a district shall be held in the first quarter of each calendar year and special
8 meetings may be called by the board of directors at any time. ~~Notice thereof shall be given by the~~
9 The secretary-treasurer shall give notice of a special meeting by one publication in a legal
10 newspaper of general circulation in each county in which ~~such~~ the district is situated. The
11 meeting shall be held not less than seven days nor more than fourteen days after the date of
12 publication of ~~such~~ the notice.

13 Section 17. That § 34-31A-43 be amended to read as follows:

14 34-31A-43. A regular meeting of the ~~electors who are owners of any interest in real property~~
15 ~~assessed for taxation~~ landowners in the district ~~and who are residing within the boundaries of a~~
16 ~~district~~ shall be held in the first quarter of each calendar year and special meetings may be called
17 by the board of directors at any time. ~~Notice thereof shall be given by the~~ The secretary-treasurer
18 shall give notice of a special meeting by one publication in a legal newspaper of general
19 circulation in each county in which ~~such~~ the district is situated. The meeting shall be held not less
20 than seven days nor more than fourteen days after the date of publication of ~~such~~ the notice.

21 Section 18. That § 34A-5-18 be amended to read as follows:

22 34A-5-18. The board of trustees shall give notice of the election provided for in § 34A-5-17
23 pursuant to ~~§ 34A-5-8~~ § 6-16-4, and the question shall be submitted to the voters on a separate
24 ballot and be so stated as to enable each voter to vote for or against the proposed question.

25 Section 19. That § 46A-14-8 be amended to read as follows:

1 46A-14-8. The initiating petition shall contain the following:

2 (1) The name of the proposed district;

3 (2) That there is need in the interest of the public health, safety, and welfare for creation
4 of a district to accomplish improvements in the watershed;

5 (3) A statement in general terms setting forth the purposes of the contemplated
6 improvements, the territory to be included in the district; and all proposed
7 subdivisions thereof, if any, of the district;

8 (4) The number ~~and names~~ of managers, ~~which~~ shall be three or five members, ~~to be~~
9 ~~appointed as first managers of the proposed district, and who shall act for a period of~~
10 ~~one year or until the first annual meeting. They.~~ Each manager shall ~~be owners of own~~
11 land located in the proposed district but ~~none shall~~ may not be a public officer of the
12 state or federal government;

13 (5) A list of landowners and the total acreage of land owned by each within the proposed
14 district;

15 (6) A map of the proposed district and the ownership of all land in the proposed district,
16 except the outline only of the jurisdiction of the authorized officials of municipalities
17 included need be shown; and

18 (7) The location of the official place of business of the proposed district;

19 ~~(8) A request for the organization of the district as proposed and appointment of the first~~
20 ~~managers.~~

21 Section 20. That § 46A-14-38 be amended to read as follows:

22 46A-14-38. ~~Candidates shall file their written applications with the secretary of the board of~~
23 ~~managers, at least thirty days before elections. All managers and candidates~~ Each manager and
24 candidate shall be landowners of own land in the district. ~~Landowners residing within or outside~~
25 ~~the district may vote in person, or by absentee ballot.~~

Section 21. That § 46A-18-4 be amended to read as follows:

46A-18-4. The petition established pursuant to § 46A-18-2 shall contain:

- (1) The name of the proposed district;
- (2) The object and purpose of the water project and works proposed to be constructed or acquired, together with a general description of the nature, location, and method of operation of the proposed works or program of activities;
- (3) A legal description of the lands constituting the proposed district and the ~~names~~ name of any ~~municipalities~~ municipality included partly or wholly within the boundaries of the proposed district;
- (4) The location of the principal place of business of the proposed district; and
- (5) The number of members of the board of directors of the proposed district, which number may not be less than three nor more than seven, and a statement as to ~~whether~~ if the directors shall be elected at large or shall be elected by director divisions; ~~the names and addresses of the members who shall serve as directors until their successors are elected and qualified as provided in this chapter, and, if director divisions are provided for, the respective divisions that the directors are to represent. The persons named in the petition as directors. Each director shall be a qualified voters voter of the district and, if director divisions are provided for, shall be a qualified voters voter of the respective divisions division the directors are director is to represent.~~

Section 22. That § 46A-18-21 be amended to read as follows:

46A-18-21. The initial district directors ~~named in the petition for formation, upon establishment of the district by the Board of Water and Natural Resources,~~ shall assume the duties of ~~their offices~~ office and serve until ~~their~~ successors are duly elected and qualified.

Section 23. That § 46A-18-23 be amended to read as follows:

1 46A-18-23. Prior to May first of each year, on dates established by the directors, an annual
2 meeting of the district shall be held during which the ~~voters~~ landowners shall elect, ~~by ballot,~~
3 ~~under the direction of the secretary of the district,~~ directors to replace ~~those~~ the directors whose
4 terms have expired. Each director shall own land in the district. Newly elected directors shall
5 assume office at the time of ~~their~~ election.

6 Section 24. That § 46A-18-24 be repealed.

7 ~~46A-18-24. The water project district directors shall publish a notice once each week for~~
8 ~~three consecutive weeks immediately prior to the annual election and meeting stating the time,~~
9 ~~place and purpose of the election and meeting, the names of the director candidates and the~~
10 ~~director division that each candidate is to represent in a legal newspaper of general circulation~~
11 ~~in each county that has land situated within the district. The notice shall also include information~~
12 ~~on any project reserve fund established by the district, as provided in § 46A-18-57.1.~~

13 Section 25. That § 46A-18-25 be repealed.

14 ~~46A-18-25. Nominations of director candidates to be elected at the annual election shall be~~
15 ~~by nominating petition signed by at least twenty-five qualified voters or ten percent of the~~
16 ~~qualified voters, whichever is less, in the district, if the directors are elected at large, or signed~~
17 ~~by at least ten qualified voters or ten percent of the qualified voters, whichever is less, in the~~
18 ~~director division if the directors are elected by division. The petitions shall be in a form~~
19 ~~prescribed by the state board of elections and shall be filed with the secretary of the district at~~
20 ~~least thirty days prior to the election.~~

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Local Government. H.J. 34

3 1/19/99 Scheduled for Committee hearing on this date.

4 1/19/99 Local Government Do Pass Amended, Passed, AYES 12, NAYS 1. H.J. 80

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0255

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB1042** - 1/26/99

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to authorize the secretary of commerce and regulation to
2 issue restricted driver licenses to persons whose driving privileges have been withdrawn and
3 to promulgate certain administrative rules.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The secretary of commerce and regulation may issue a restricted license to a person whose
8 license has been suspended, revoked, disqualified, or canceled pursuant to § 32-12-49 to allow
9 the person to drive to and from the person's place of employment, for purposes of the person's
10 employment, or for attendance at school. The secretary of commerce and regulation may
11 promulgate rules pursuant to chapter 1-26 for restricted licenses with regard to eligibility,
12 application, determination, limitations, duration, and grounds for revocation.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Commerce. H.J. 39

3 1/26/99 Scheduled for Committee hearing on this date.

4 1/26/99 Commerce Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 187

5 1/26/99 Commerce Place on Consent Calendar.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0215

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB1045** - 1/26/99

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the confidentiality
2 of bank examinations.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 51A-2-35 be amended to read as follows:

5 51A-2-35. The records of the division ~~shall be~~ are open to public inspection; ~~provided,~~
6 ~~however.~~ However:

7 (1) The director may withhold from public inspection any record, including any
8 correspondence, for so long as ~~he deems~~ deemed necessary for the protection of a
9 person or bank or to be in the public interest; ~~and~~

10 (2) The director shall withhold from public inspection any record required to be
11 confidential pursuant to federal statutes or rules or regulations of the board of
12 governors of the federal reserve system or the Federal Deposit Insurance Corporation;
13 and

14 (3) Reports of examination shall remain the property of the division and shall be furnished
15 to the bank for its confidential use. Under no circumstances may the report or any
16 supporting documentation be disclosed to anyone, other than directors and officers

1 of the bank or anyone who is acting in a fiduciary capacity for the bank, without
2 written permission from the director.

3 Any record of the division shall be made available upon order of a court of competent
4 jurisdiction ~~when~~ if cause is shown.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Commerce. H.J. 40

3 1/19/99 Scheduled for Committee hearing on this date.

4 1/19/99 Commerce Deferred to another day.

5 1/26/99 Scheduled for Committee hearing on this date.

6 1/26/99 Commerce Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 188

7 1/26/99 Commerce Place on Consent Calendar.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0320

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB1058** - 1/26/99

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise the Board of Accountancy's authority regarding
2 certificate holders not in public practice and to revise certain educational, continuing
3 education, and examination requirements for licensees and certificate holders.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 36-20A-1 be amended to read as follows:

6 36-20A-1. Terms, as used in this chapter, mean:

7 (1) "Board," the South Dakota Board of Accountancy established pursuant to
8 § 36-20A-3 or its predecessor;

9 (2) "Certificate," a certificate as a certified public accountant issued pursuant to
10 § 36-20A-8 or corresponding provisions of prior law, or a corresponding certificate
11 as certified public accountant issued after examination under the law of any other
12 state;

13 (3) "Firm," a sole proprietorship, a corporation, limited liability company, or a
14 partnership;

15 (4) "Licensee," the holder of a certificate issued pursuant to § 36-20A-8 or of a license
16 issued under prior law, or of a permit issued pursuant to § 36-20A-10, 36-20A-11,

1 or 36-20A-14; or, in each case, a certificate, license, or permit issued under
2 corresponding provisions of prior law;

3 (5) "Permit," a permit to practice public accountancy issued to a person pursuant to
4 § 36-20A-10 or 36-20A-11 or the corresponding provisions of prior law or to a firm
5 pursuant to § 36-20A-14;

6 (6) "~~Quality~~ Peer review," a study, appraisal, or review by a licensee of this state or a
7 person holding a certificate of any state, of one or more aspects of the professional
8 work of a person or firm in the practice of public accountancy;

9 (7) "State," any state of the United States, the District of Columbia, Puerto Rico, the
10 United States Virgin Islands, and Guam. However, the term, this state, means the
11 State of South Dakota;

12 (8) "Foreign," referring to a jurisdiction outside of the United States;

13 (9) "Domestic," referring to a jurisdiction of a state as the term, state, is defined by this
14 section; and

15 (10) "License," a license as a public accountant issued pursuant to § 36-20A-17.

16 Section 2. That § 36-20A-4 be amended to read as follows:

17 36-20A-4. The board shall elect annually from among its members a chair, and such other
18 officers as the board considers appropriate. The board shall meet at such times and places within
19 this state as may be fixed by the board. Any meeting of the board is open to the public except
20 insofar as they are concerned with investigations under § 36-20A-21 and except as may be
21 necessary to protect information which is required to be kept confidential by the laws of this
22 state. A majority of the board members ~~then in office~~ constitutes a quorum. The board shall
23 maintain a registry of the names and addresses of all licensees under this chapter who hold
24 current permits to practice public accountancy. The board may maintain a registry of the names
25 and addresses of all other licensees. The board shall be within the Department of Commerce and

Regulation and shall submit such reports of its activities in the form and at such times as required by the secretary of commerce and regulation.

Section 3. That § 36-20A-7 be amended to read as follows:

36-20A-7. The board may promulgate rules pursuant to chapter 1-26 governing its administration and enforcement of this chapter and the conduct of licensees, including:

- (1) Rules governing the board's meeting and the conduct of its business;
- (2) Rules of procedure governing the conduct of investigations and hearings by the board;
- (3) Rules specifying the fees and educational qualifications required for the issuance of certificates pursuant to §§ 36-20A-8 and 36-20A-10, the experience required for issuance of permits pursuant to §§ 36-20A-10 and 36-20A-11, the date for renewal of permits pursuant to §§ 36-20A-10 and 36-20A-14, and the continuing professional education required for renewal of permits pursuant to § 36-20A-12;
- (4) Rules of professional conduct to control the quality and integrity of the practice of public accountancy by permit holders;
- (5) Rules governing the manner and circumstances of use by holders of certificates who do not also hold permits under this chapter of the titles, certified public accountant and CPA;
- (6) Rules specifying procedures and fees for registration of certificate holders who do not also hold permits under this chapter of the titles, certified public accountant and CPA;
- (7) Rules governing the manner and circumstances of use by holders of licenses issued under prior law who do not also hold permits under this chapter of the titles, public accountant and PA;
- (8) Rules specifying procedures and fees for registration of license holders who do not also hold permits under this chapter of the titles, public accountant and PA;
- (9) Rules regarding quality peer review pursuant to § 36-20A-15;

- 1 (10) Rules specifying a ~~quality peer~~ review administrative fees;
- 2 (11) Rules specifying procedures and fees for ~~quality peer~~ review seminars and manuals;
- 3 (12) Rules specifying fees for examination and reexamination and issuance of a certificate
- 4 pursuant to § 36-20A-8;
- 5 (13) Rules specifying procedures and fees for proctoring applicants ~~of~~ from another
- 6 jurisdiction;
- 7 (14) Rules specifying the procedures and fees for initial issuance or renewal of an
- 8 individual or firm permit pursuant to § 36-20A-18; ~~and~~
- 9 (15) Rules governing the application and fees for a modification of a suspension or reissue
- 10 of a certificate, license, or permit pursuant to § 36-20A-25;
- 11 (16) Rules governing the methods, eligibility, and requirements for applying for
- 12 examination and reexamination pursuant to § 36-20A-8;
- 13 (17) Rules specifying procedures and fees for renewal of certificates and individual and
- 14 firm permits not filed in a timely manner;
- 15 (18) Rules specifying procedures and fees for replacement of a certificate or permits issued
- 16 pursuant to § 36-20A-8, 36-20A-10, 36-20A-11, or 36-20A-14;
- 17 (19) Rules specifying methods and requirements for conducting the examination prescribed
- 18 in § 36-20A-8;
- 19 (20) Rules specifying methods, eligibility, and requirements of applying for a certificate in
- 20 accordance with § 36-20A-8;
- 21 (21) Rules specifying procedures and fees for issuance of certificates and individual and
- 22 firm permits not filed within the required period of time; and
- 23 (22) Rules defining active and inactive status of both certificate and PA license holders
- 24 who do not have a valid individual permit to practice.

25 Section 4. That § 36-20A-8 be amended to read as follows:

1 36-20A-8. The board shall grant ~~the a~~ certificate of ~~certified public accountant~~ to any
2 applicant who meets the requirements of good character, education, and examination, and who
3 pays the fees prescribed in this chapter.

4 Good character for purposes of this section ~~means~~ is indicated by lack of a history of
5 dishonest or felonious acts. The board may refuse to grant a certificate on the ground of failure
6 to satisfy this requirement only if there is a substantial connection between the lack of good
7 character of the applicant and the professional responsibilities of a licensee. If an applicant is
8 found to be unqualified for a certificate because of a lack of good character, the board shall
9 furnish the applicant a statement containing the reasons for the refusal.

10 The education requirement for a certificate, which shall be met before one hundred days after
11 an applicant sits for the examination prescribed in this chapter, is at least one hundred fifty
12 semester hours of college education, including graduation from an accredited college or
13 university with a baccalaureate or a graduate major in accounting, or the satisfactory completion
14 of a course of study which the board has determined to be substantially the equivalent of an
15 accounting major, including related courses in other areas of business administration. Such
16 courses of study may be in a college or university recognized by the board.

17 The examination required to be passed as a condition for the granting of a certificate ~~shall~~
18 ~~be in writing~~, shall be held at least annually, and shall test the applicant's knowledge of the
19 subjects of accounting, auditing, and such other related subjects as the board may specify by rule
20 promulgated pursuant to chapter 1-26. The time and place for holding such examination shall be
21 fixed by the board and may be changed from time to time. The board shall prescribe by rule
22 promulgated pursuant to chapter 1-26 the requirements and methods of applying for and
23 conducting the examination, including methods for grading papers and determining a passing
24 grade entitling an applicant to a certificate.

25 An applicant shall be required to pass all parts of the examination provided for in this section

1 in order to qualify for a certificate. If at any sitting of the examination an applicant passes the
2 number of parts specified by the board by rule promulgated pursuant to chapter 1-26, then the
3 applicant shall be given credit for those parts ~~that he has~~ passed and need not sit for
4 reexamination in those parts, if:

- 5 (1) The applicant wrote all parts of the examination at that sitting;
- 6 (2) The applicant attained a minimum grade specified by the board by rule promulgated
7 pursuant to chapter 1-26 on each part not passed at that sitting;
- 8 (3) The applicant passes the remaining parts of the examination within seven consecutive
9 examinations given after the one at which the first parts were passed;
- 10 (4) At each subsequent sitting at which the applicant seeks to pass any additional parts,
11 the applicant writes all parts not yet passed; and
- 12 (5) In order to receive credit for passing additional parts in any such subsequent sitting,
13 the applicant attains such grades on parts written but not passed on such sitting as
14 specified by the board by rule promulgated pursuant to chapter 1-26.

15 An applicant shall be given credit for any parts of an examination passed in another state if
16 such credit would have been given, under then applicable requirements, if the applicant had taken
17 the examination in this state. The board may in particular cases waive or defer any of the
18 foregoing requirements regarding the circumstances in which the various parts of the
19 examination shall be passed, upon a showing that, by reason of circumstances beyond the
20 applicant's control, ~~he~~ the applicant was unable to meet such requirement.

21 The board may charge each applicant a fee, in an amount prescribed by the board by rule
22 promulgated pursuant to chapter 1-26, for each part of the examination or reexamination taken
23 by the applicant.

24 Section 5. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
25 as follows:

1 An examination candidate, who was accepted under the educational requirement in effect
2 through December 31, 1997, and who sat on or before the November 1997 examination, may
3 continue to sit for the examination in accordance with requirements established by the board by
4 rule promulgated pursuant to chapter 1-26.

5 Section 6. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
6 as follows:

7 A person, who passed the examination as a South Dakota candidate on or before the
8 November 1997 examination and who did not apply for a certificate by December 31, 1997, may
9 apply for a certificate in accordance with requirements and by such date established by the board
10 by rule promulgated pursuant to chapter 1-26.

11 Section 7. That § 36-20A-11 be amended to read as follows:

12 36-20A-11. Any individual practicing public accountancy in this state is required to have an
13 individual permit to practice.The board shall issue an individual permit to a holder of a certificate
14 issued by another state upon a showing that:

- 15 (1) The applicant passed an examination required for issuance of ~~his~~ the certificate
16 equivalent to the examination required by this state with grades that would have been
17 passing grades at the time in this state;
- 18 (2) The applicant meets all current requirements in this state for issuance of a certificate
19 at the time application is made; or at the time of the issuance of the applicant's
20 certificate in the other state, met all requirements then applicable in this state for
21 issuance of a certificate; or has four years of experience in the practice of public
22 accountancy or equivalent, meeting requirements prescribed by the board by rule
23 promulgated pursuant to chapter 1-26 after passing the examination upon which ~~his~~
24 the certificate was based and within the ten years immediately preceding ~~his~~ the
25 application; and

1 (3) The applicant meets the requirements of § 36-20A-10 other than holding a valid
2 certificate issued by this state.

3 Section 8. That § 36-20A-13 be amended to read as follows:

4 36-20A-13. Any applicant for initial issuance or renewal of individual permits shall in ~~his~~ the
5 application list all states in which ~~he~~ the applicant has applied for or holds any certificate or
6 permit; ~~and each~~ . Each holder of an individual permit shall notify the ~~Board of Accountancy~~
7 board in writing, within thirty days after its occurrence, of any denial of an application, or
8 revocation or suspension of a certificate or permit, in another state.

9 Each holder of an individual permit shall notify the board in writing, within thirty days after
10 its occurrence, of any change in employment or address.

11 Section 9. That § 36-20A-14 be amended to read as follows:

12 36-20A-14. Any firm practicing public accountancy in this state ~~shall~~ is required have a firm
13 permit to practice. The board shall grant or renew a permit to practice public accountancy to any
14 firm that applies and demonstrates its qualifications. The board shall issue permits and renew
15 them for periods of one year but in any event expiring on the date as determined by the board
16 by rule promulgated pursuant to chapter 1-26 following issuance or renewal. The failure to
17 renew on the part of any registrant under this chapter does not deprive such firm of the right of
18 renewal thereafter if it is otherwise qualified. The fee for the renewal of the permit after it has
19 expired shall be increased by a uniform percent or amount to be established by the board by rule
20 promulgated pursuant to chapter 1-26. Applications for permits shall be made in such form, and
21 in the case of applications for renewal between such dates as the board may, by rule;
22 promulgated pursuant to chapter 1-26, specify. An applicant for initial issuance or renewal of a
23 permit to practice pursuant to this section shall show that the proprietor or each partner,
24 member, officer, or shareholder who works in this state, and each employee holding a certificate
25 who works in this state except for employees who have not yet accumulated sufficient experience

1 to qualify for an individual permit pursuant to § 36-20A-10, holds a valid individual permit to
2 practice, and that each other partner, member, officer, or shareholder holds a certificate and is
3 licensed to practice public accountancy in some other state. An applicant for initial issuance or
4 renewal of a permit to practice pursuant to this section shall register with the board each office
5 of the firm within this state and each office of the firm located out of state that is practicing in
6 this state, and show that each office is under the charge of a person holding a valid permit to
7 practice.

8 Section 10. That § 36-20A-15 be amended to read as follows:

9 36-20A-15. The board may, by rule promulgated pursuant to chapter 1-26, require, on either
10 a uniform or a random basis, as a condition to renewal of firm permits pursuant to § 36-20A-14,
11 that applicants undergo ~~quality peer~~ reviews conducted in such manner and producing such
12 satisfactory result as the board may specify. However, any such requirement shall include
13 reasonable provision for compliance by means of an applicant furnishing evidence of a
14 satisfactory ~~quality peer~~ review performed for other purposes.

15 The board may charge any firm subject to ~~quality peer~~ review administrative fees to be
16 established by rule promulgated pursuant to chapter 1-26. The fees may be established in
17 accordance to the provisions under which the firm applies for ~~quality peer~~ review.

18 Pursuant to the ~~quality peer~~ review process, the board shall treat the reports of the reviewer
19 and all records submitted to the reviewer by the firm subject to review as confidential
20 information. The board may not disclose such information to any persons other than staff
21 members, legal counsel, and other persons retained by the board to assist it in fulfilling its
22 responsibilities under this chapter and the rules promulgated by the board pursuant to chapter
23 1-26.

24 Section 11. That § 36-20A-16 be amended to read as follows:

25 36-20A-16. Any applicant for initial issuance or renewal of firm permits shall, in ~~his~~ the

1 application, list all states in which ~~he~~ the applicant has applied for or holds any permit to practice
2 public accountancy; and each holder of or applicant for a firm permit shall notify the ~~Board of~~
3 ~~Accountancy board~~ in writing within thirty days after its occurrence of any change in the
4 identities of partners, members, officers, or shareholders who work within this state, any change
5 in the number or location of offices within this state, any change in the identity of the persons in
6 charge of such offices, and any issuance, denial, revocation, or suspension of a permit by any
7 other state.

8 Section 12. That § 36-20A-17 be amended to read as follows:

9 36-20A-17. Any person who on June 30, 1984, held any license as a public accountant or
10 permit to practice public accountancy issued under prior law of this state shall have ~~his~~ the permit
11 to practice renewed pursuant to § 36-20A-10, if ~~he~~ the person fulfills all requirements for
12 renewal other than holding a ~~certificate~~ license. If ~~such licensees~~ a licensee and the ~~firms~~ firm,
13 in which ~~they are proprietors, partners, officers, or shareholders~~ the licensee is a proprietor,
14 partner, officer, or shareholder, hold valid permits to practice pursuant to §§ 36-20A-10 and
15 36-20A-14, respectively, they may engage in the practice of public accountancy to the same
16 extent as other holders of such permits. They may also use the designations, public accountants
17 and PA, but no other designation, in connection with the practice of public accountancy.

18 Section 13. That § 36-20A-20 be amended to read as follows:

19 36-20A-20. The board may, in accordance with chapter 1-26, revoke any certificate, license,
20 or permit issued pursuant to § 36-20A-8, 36-20A-10, 36-20A-11, or 36-20A-14, or
21 corresponding provisions of prior law, suspend any such certificate, license, or permit or refuse
22 to renew any such certificate, license, or permit for a period of not more than five years,
23 reprimand, censure, or limit the scope of practice of any licensee, or place any licensee on
24 probation, all with or without terms, conditions, and limitations for any of the following reasons:

25 (1) Fraud or deceit in obtaining a certificate or permit;

- (2) Cancellation, revocation, suspension, or refusal to renew authority to engage in the practice of public accountancy in any other state for any cause;
- (3) Failure, on the part of a holder of a permit pursuant to § 36-20A-10, 36-20A-11, or 36-20A-14 or on the part of a holder of a certificate pursuant to § 36A-20A-8 or of a certificate issued by another state, to maintain compliance with the requirements for issuance or renewal of such permit or to report changes to the board pursuant to § 36-20A-13 or 36-20A-16, or section 22 of this Act;
- (4) Revocation or suspension of the right to practice before any state or federal agency;
- (5) Dishonesty or gross negligence in the practice of public accountancy or in the filing or failure to file personal income tax returns;
- (6) Violation of any of the provisions of this chapter or rules promulgated pursuant to chapter 1-26 by the board under this chapter;
- (7) Conviction of a felony or of any crime, an element of which is dishonesty or fraud, under the laws of any state or the United States;
- (8) Performance of any fraudulent act while holding a certificate, license, or permit;
- (9) Any conduct reflecting adversely upon the licensee's fitness to engage in the practice of public accountancy; and
- (10) Dishonesty or gross negligence in the performance of quality peer reviews.

In lieu of or in addition to any remedy specifically provided in this section, the board may require of a licensee a quality peer review conducted in such manner as the board may specify or satisfactory completion of such continuing professional education programs as the board may specify, or both.

In any proceeding in which a remedy provided by this section is imposed, the board may also require the respondent licensee to pay some or all of the costs of the proceeding.

Section 14. That § 36-20A-24 be amended to read as follows:

1 36-20A-24. If the board renders a decision imposing discipline against a licensee under this
2 chapter, the board shall examine its records to determine whether the licensee holds a certificate,
3 license, or a permit to practice public accountancy in any other state. If so, the board shall notify
4 the board of accountancy of such other state of its decision, by mail, within thirty days of
5 rendering the decision. The board may also furnish information relating to proceedings resulting
6 in disciplinary action with other public authorities and with private professional organizations
7 having a disciplinary interest in the licensee.

8 Section 15. That § 36-20A-25 be amended to read as follows:

9 36-20A-25. If the board has suspended or revoked a certificate, license, or a permit, or
10 refused to renew a certificate, license, or permit, the board may, upon application in writing by
11 the person or firm affected and for good cause shown, modify the suspension or reissue the
12 certificate, license, or permit. The board shall, by rule promulgated pursuant to chapter 1-26,
13 specify the manner in which such applications shall be made, the times within which they shall
14 be made and the circumstances in which hearings shall be held thereon. Before reissuing, or
15 terminating the suspension of, a certificate, license, or permit under this section, and as a
16 condition thereto, the board may require the applicant therefor to show successful completion
17 of specified continuing professional education. The board may make the reinstatement of a
18 certificate, license, or permit conditional, and subject to satisfactory completion of a quality peer
19 review conducted in such manner as the board may specify.

20 Section 16. That § 36-20A-26 be amended to read as follows:

21 36-20A-26. No person or firm not holding a valid permit issued pursuant to § 36-20A-10,
22 36-20A-11, or 36-20A-14 may issue a report on financial statements of any other person, firm,
23 organization, or governmental unit. ~~Report~~ The term, report, if used with reference to financial
24 statements, means an opinion, report, or other form of language which states or implies
25 assurance as to the reliability of any financial statements and which also includes or is

1 accompanied by any statement or implication that the person or firm issuing it has special
2 knowledge or competence in accounting or auditing. Such a statement or implication of special
3 knowledge or competency may arise from use by the issuer of the report of names or titles
4 indicating that the issuer is an accountant or auditor, or from the language of the report itself.
5 The term, report, includes any form of language which disclaims an opinion when such form of
6 language is conventionally understood to imply any positive assurance as to the reliability of the
7 financial statements referred to or special competence on the part of the person or firm issuing
8 such language; and it includes any other form of language that is conventionally understood to
9 imply such assurance or such special knowledge or competence. This prohibition does not apply
10 to an officer, partner, member, or employee of any firm or organization affixing ~~his~~ the person's
11 signature to any statement or report in reference to the financial affairs of such firm or
12 organization with any wording designating the position, title, or office that ~~he~~ the person holds
13 therein; nor prohibit any act of a public official or employee in the performance of ~~his~~ the
14 person's duties as such; nor prohibit the performance by persons other than licensees of other
15 services involving the use of accounting skills, including the preparation of tax returns and the
16 preparation of financial statements without the issuance of reports thereon.

17 The prohibition contained in this section is applicable to issuance, by a person or firm not
18 holding a valid permit, of a report using any form of language conventionally used by licensees
19 respecting a review or compilation of financial information.

20 Any person who violates the provisions of this section is guilty of a Class 2 misdemeanor.

21 Section 17. That § 36-20A-27 be amended to read as follows:

22 36-20A-27. ~~No person not a current~~ Any person who is a licensee may use or assume the
23 title or designation, certified public accountant, or the abbreviation CPA, or any other title,
24 designation, words, letters, abbreviation, sign, card, or device ~~tending to indicate~~ indicating that
25 such person is a certified public accountant. However, a holder of a certificate who does not also

1 hold a permit, may use the titles pertaining to such certificate in any manner not prohibited by
2 rule promulgated by the board pursuant to chapter 1-26. Use of the designation by a licensee in
3 inactive status is restricted as prescribed by rules promulgated by the board pursuant to chapter
4 1-26.

5 No firm may assume or use the title or designation, certified public accountant, or the
6 abbreviation CPA, or any other title, designation, words, letters, abbreviation, sign, card, or
7 device ~~tending to indicate~~ indicating that such firm is composed of certified public accountants
8 unless:

9 (1) The firm holds a valid permit pursuant to § 36-20A-14; and

10 (2) All partners, officers, members, and shareholders of the firm hold certificates.

11 No person may assume or use the title or designation, public accountant, or the abbreviation
12 PA, or any other title, designation, words, letters, abbreviation, sign, card, or device ~~tending to~~
13 ~~indicate~~ indicating that such person is a public accountant unless ~~he~~ the person holds a public
14 accountant's license issued under prior law. However, a holder of a license issued under prior law
15 who does not also hold a permit, may use the titles pertaining to such license in any manner not
16 prohibited by rule promulgated pursuant to chapter 1-26 by the board.

17 No firm not holding a valid permit issued pursuant to § 36-20A-14 may assume or use the
18 title or designation, public accountant, or the abbreviation PA, or any other title, designation,
19 words, letters, abbreviation, sign, card, or device ~~tending to indicate~~ indicating that such firm is
20 composed of public accountants. ~~No~~ Any person or firm that does not ~~holding~~ hold a valid
21 permit issued pursuant to § 36-20A-10, 36-20A-11, or 36-20A-14 may not assume or use the
22 title or designation, certified accountant, chartered accountant, enrolled accountant, licensed
23 accountant, registered accountant, accredited accountant, or any other title or designation likely
24 to be confused with the titles, certified public accountant or public accountant. ~~However, a~~
25 ~~holder of a certificate issued pursuant to § 36-20A-8, or of a license issued under prior law who~~

1 ~~does not also hold a permit, may use the titles pertaining to such certificate or license in any~~
2 ~~manner not prohibited by rules promulgated by the Board of Accountancy.~~

3 ~~— No person or firm not holding a valid permit issued pursuant to § 36-20A-10, 36-20A-11,~~
4 ~~or 36-20A-14 may assume or use any title or designation that includes the words, accountant,~~
5 ~~auditor, or accounting, in connection with any other language including the language of a report~~
6 ~~which implies that such person or firm holds such a permit or has special competence as an~~
7 ~~accountant or auditor. However, this does not prohibit any officer, member, partner, or employee~~
8 ~~of any firm or organization from affixing his signature to any statement or report in reference to~~
9 ~~the financial affairs of such firm or organization with any wording designating the position, title,~~
10 ~~or office that he holds therein, nor prohibit any act of a public official or employee in the~~
11 ~~performance of his duties as such.~~

12 Any person or firm who violates the provisions of this section is guilty of a Class 2
13 misdemeanor.

14 Section 18. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
15 as follows:

16 Any person or firm that does not hold a valid permit issued pursuant to § 36-20A-10, 36-
17 20A-11, or 36-20A-14 may not assume or use any title or designation that includes the words,
18 accountant, auditor, or accounting, in connection with any other language including the language
19 of a report which implies that such person or firm holds such a permit or has special competence
20 as an accountant or auditor. However, this does not prohibit any officer, member, partner, or
21 employee of any firm or organization from affixing the person's signature to any statement or
22 report in reference to the financial affairs of such firm or organization with any wording
23 designating the position, title, or office that the person holds therein, nor prohibit any act of a
24 public official or employee in the performance of the person's duties as such.

25 Any person or firm who violates the provisions of this section is guilty of a Class 2

1 misdemeanor.

2 Section 19. That § 36-20A-28 be amended to read as follows:

3 36-20A-28. No person holding a certificate or a license issued under prior law may engage
4 in the practice of public accountancy unless ~~he~~ the person also holds a valid permit issued
5 pursuant to § 36-20A-10 or 36-20A-11, or ~~he~~ the person is an employee and not a partner,
6 officer, member, or shareholder of a firm holding such a permit issued pursuant to § 36-20A-14
7 and has not been such an employee long enough to meet the experience requirement prescribed
8 by § 36-20A-10 for an individual permit to practice.

9 No firm may engage in the practice of public accountancy unless it holds a valid permit issued
10 pursuant to § 36-20A-14.

11 Any person or firm who violates the provisions of this section is guilty of a Class 2
12 misdemeanor.

13 Section 20. That § 36-20A-32 be amended to read as follows:

14 36-20A-32. If the ~~Board of Accountancy~~ board has suspended a certificate, license, or a
15 permit or has refused to renew a certificate, license, or permit for a specified period of time and
16 the specified period of time has elapsed, the board may, upon application in writing by the person
17 or firm affected and for good cause shown, reinstate or reissue the certificate, license, or permit.
18 The board shall by rule promulgated pursuant to chapter 1-26 specify the manner in which the
19 application shall be made, the time period within which the application shall be made, and the
20 circumstances in which a hearing shall be held on the application. Before reissuing or reinstating
21 the certificate, license, or permit under this section, and as a condition thereto, the board may
22 require the applicant to show successful completion of specified continuing professional
23 education. The board may make the reinstatement of a certificate, license, or permit conditional,
24 and subject to satisfactory completion of a ~~quality~~ peer review conducted in such manner as the
25 board may specify.

1 Section 21. That § 36-20A-33 be amended to read as follows:

2 36-20A-33. The board may, by rule promulgated pursuant to chapter 1-26, establish
3 requirements whereby personnel of any firm subject to quality peer review and any reviewer
4 performing a quality peer review shall attend a quality peer review seminar.

5 The board may by rule promulgated pursuant to chapter 1-26 establish requirements whereby
6 personnel of any firm subject to quality peer review and any reviewer performing quality peer
7 review shall purchase a quality peer review manual.

8 Section 22. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
9 as follows:

10 The board shall renew certificates and licenses of individuals not holding individual permits
11 to practice, who reside or are employed in this state. Any certificate issued pursuant to § 36-
12 20A-8 or by another state or any license issued under prior law must be renewed for periods of
13 one year but in any event expiring on the renewal date as established by the board by rule
14 promulgated pursuant to chapter 1-26. The board shall, by rule promulgated pursuant to chapter
15 1-26, establish the renewal date for such a certificate. The board may, by rule promulgated
16 pursuant to chapter 1-26, increase the fee for the renewal of a certificate or license after it has
17 expired. Applications for renewal of a certificate or license shall be made in such form as the
18 board shall specify by rule promulgated pursuant to chapter 1-26.

19 The board may establish a continuing professional education requirement for renewal of a
20 certificate or license. However, no such requirement may be established prior to July 1, 2002.
21 The board may provide, by rule promulgated pursuant to chapter 1-26, the kinds and subjects
22 of education, the number of hours of education required annually, and procedures for prorating
23 continuing professional education requirements for applicants whose certificate was issued less
24 than three years before the renewal date.

25 A certificate or license holder may be considered exempt from the continuing professional

1 education requirement by requesting an inactive status. The board shall establish, by rule
2 promulgated pursuant to chapter 1-26, requirements for an active and an inactive status.

3 Each certificate or license holder shall notify the board in writing within thirty days after its
4 occurrence of any change in employment or address.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Commerce. H.J. 42

3 1/21/99 Scheduled for Committee hearing on this date.

4 1/26/99 Scheduled for Committee hearing on this date.

5 1/26/99 Commerce Do Pass Amended, Passed, AYES 12, NAYS 1. H.J. 185

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

995C0139

HOUSE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB1076** - 1/26/99

Introduced by: Representatives Haley, Cutler, Koetzle, and Lucas and Senators Daugaard, Everist, Hutmacher, Kloucek, Moore, and Olson

1 FOR AN ACT ENTITLED, An Act to appropriate federal funds for the continuation of the
2 Visitation Enforcement Program Implementation Task Force.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby annually appropriated to the Unified Judicial System one hundred
5 thousand dollars (\$100,000) of federal fund authority for acceptance of a grant from the
6 Department of Social Services of moneys obtained from Part D of Title IV (U.S.C. 651-669),
7 as amended, in order to continue the operations of the Visitation Enforcement Program
8 Implementation Task Force, created by Chapter 150 of the 1997 South Dakota Session Laws.
9 The Unified Judicial System may expend no more than ten thousand dollars of this appropriation
10 to pay any expenses of the task force.

11 Section 2. The state court administrator shall approve vouchers and the state auditor shall
12 draw warrants to pay expenditures authorized by this Act.

1 **BILL HISTORY**

2 1/19/99 First read in House and referred to Appropriations. H.J. 85

3 1/26/99 Scheduled for Committee hearing on this date.

4 1/26/99 Appropriations Do Pass Amended, Passed, AYES 10, NAYS 0. H.J. 184

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

660C0391

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1084** - 1/26/99

Introduced by: Representatives Hunt, Brooks, and Crisp and Senator Munson (David)

1 FOR AN ACT ENTITLED, An Act to establish deadlines for action by school districts on
2 certain reorganization petitions and plans.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-6-10 be amended to read as follows:

5 13-6-10. ~~Whenever~~ If the school board or the voters of two or more districts or parts of
6 districts express a desire to consolidate their respective districts to create a new entity; or the
7 school board or the voters of an existing district express a desire to divide the district to create
8 one or more new entities; or the school board or the voters of an existing district express a desire
9 to dissolve and be annexed to an existing district, the school board may by resolution, or shall,
10 ~~when~~ if presented by a petition signed by fifteen percent of the registered voters residing in the
11 district, based upon the total number of registered voters at the last preceding general election,
12 develop a plan to accomplish the desire expressed in the resolution or contained in the petition.
13 If more than one district is involved, their respective school boards shall act jointly in the
14 preparation of ~~such~~ the plan. Within fifteen days after a petition is filed as provided in this
15 section, the school district shall acknowledge the receipt of the petition in writing to the person
16 who filed the petition. Within one hundred eighty days after the petition was filed, the school

1 board shall develop the plan required in this section and shall file the plan as required in § 13-6-
2 17. The Department of Education and Cultural Affairs may grant two extensions of the filing
3 deadline, not to exceed ninety days.

4 The school board shall call conferences and hold hearings to develop the plan. The school
5 board may employ a consultant.

1 **BILL HISTORY**

2 1/20/99 First read in House and referred to Education. H.J. 94

3 1/26/99 Scheduled for Committee hearing on this date.

4 1/26/99 Education Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 189

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

517C0253

SENATE ENGROSSED NO. **SB7** - 1/21/99

Introduced by: Senator Kleven and Representatives Munson (Donald) and Crisp at the request
of the Interim Government Operations and Audit Committee

1 FOR AN ACT ENTITLED, An Act to establish the county road and bridge fund.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 32-11 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 The county road and bridge fund is hereby established for the accounting and safekeeping
6 of highway and bridge funds of the counties for the deposit and receipt of all public moneys
7 usable for county highway and bridge construction, maintenance, and repair. Revenues to be
8 deposited in the fund include:

9 (1) Distribution of funds from the local government highway and bridge fund pursuant
10 to §§ 32-11-34 and 32-11-35;

11 (2) Levies under subdivisions 10-12-9(4) and (6);

12 (3) Levies for the county highway and bridge reserve fund established pursuant to § 10-
13 12-13;

14 (4) Levies for secondary roads in unorganized territory pursuant to § 31-12-27;

15 (5) Levies for the county snow removal and special emergency reserve fund established
16 pursuant to § 34-5-2;

- 1 (6) Funds collected from motor vehicle licenses and credited to the county pursuant to
- 2 subdivision 32-11-4.1(1A);
- 3 (7) Distribution of mobile home license fees pursuant to § 32-5-16.2;
- 4 (8) Distribution of interstate reciprocity and proportional registration of fleets fees
- 5 pursuant to § 32-10-35;
- 6 (9) Proceeds from the wheel tax pursuant to § 32-5A-2;
- 7 (10) Revenue accruing from the sale of surplus highway equipment to property pursuant
- 8 to § 6-13-8;
- 9 (11) Other revenue received by the county for service or work performed by the county
- 10 highway department under force account or agreement with other entities.

11 This section does not affect the deposit and use of the special highway fund for township
12 roads established pursuant to subdivision 32-11-4.1(2).

13 Section 2. That § 32-11-4.1 be amended to read as follows:

14 32-11-4.1. All funds collected for motor vehicle licenses in each county shall be distributed
15 in the following manner:

- 16 (1) Fifty-four percent of all funds collected shall be transmitted to the secretary of
- 17 revenue and credited to the local government highway and bridge fund;
- 18 (1A) Twenty-two and one-half percent shall be credited to the ~~general~~ county road and
- 19 bridge fund of the county in which they were collected;
- 20 (2) Fourteen percent shall be retained by the county and placed in a fund to be known as
- 21 the special highway fund, which shall be used for the construction, reconstruction, and
- 22 maintenance of roads and bridges in the county as provided by this section and
- 23 §§ 32-11-5 to 32-11-9, inclusive. If the county in which funds are collected for motor
- 24 vehicle licenses has completed the construction of the county highway system, the
- 25 entire amount in the special highway fund shall be used for township roads, and the

board of county commissioners may direct the county auditor to pay the collected amount directly to the townships pursuant to §§ 32-11-6 and 32-11-7;

(3) Five percent shall be forwarded to the municipalities within the counties in the following proportions: each municipality within each county shall receive funds in the proportion which the total street mileage of each municipality bears to the total street mileage of all the municipalities within the county. The apportionment shall be made quarterly by the county commissioners at the first meeting in January, April, July, and October. In any county having no municipalities, the five percent collection shall be placed in the county road and bridge fund of the county;

(4) Two percent shall be credited to the state motor vehicle fund; and

(5) Two and one-half percent shall be credited to the state license plate special revenue fund.

Section 3. That § 32-11-2 be amended to read as follows:

32-11-2. The funds credited to the county road and bridge fund pursuant to ~~§ 32-11-4.1~~ section 1 of this Act shall be used by the board of county commissioners for grading, constructing, planing, dragging, and maintaining county highways outside the limits of municipalities and also for dragging, maintaining, and grading secondary roads. Proper equipment for dragging, grading, and maintaining highways, such as graders, tractors, drags, maintainers, and planers may be purchased from such county road and bridge fund, ~~but not to exceed twenty-five percent of the funds credited for such year pursuant to § 32-11-4.1 shall be used for the purpose of machinery.~~

Section 4. That § 32-5A-2 be amended to read as follows:

32-5A-2. The proceeds from the tax created by this chapter shall be retained by the county; ~~and deposited in a special highway~~ the county road and bridge fund, and the revenue may be used only for highway and bridge maintenance and construction. The board of county commissioners

1 shall, by resolution, establish a means of distributing the revenue generated by this chapter among
2 the county and the municipalities and townships located within the county.

3 Section 5. That § 32-10-35 be amended to read as follows:

4 32-10-35. Fees collected by the secretary of revenue and not otherwise provided for shall be
5 distributed as provided by this section. Fees collected under chapter 32-10 by the secretary of
6 revenue pursuant to § 32-5B-1 shall be deposited in the state highway fund. Fees collected under
7 chapter 32-10 by the secretary of revenue pursuant to chapter 32-9 shall be distributed with
8 fifty-four percent to the state highway fund, forty-one and one-half percent to counties, two
9 percent to the state motor vehicle fund, and two and one-half percent to the state license plate
10 special revenue fund. The counties' portion shall be distributed among the counties, pro rata,
11 twenty-five percent according to truck registrations, twenty-five percent according to
12 population, and fifty percent according to total road mileage. Each county shall distribute
13 fifty-four percent of its portion to the county ~~general~~ road and bridge fund, thirty-four percent
14 of its portion to the special highway fund as provided by § ~~32-11-4.1~~ subdivision 32-11-4.1(2),
15 and twelve percent of its portion to the municipalities of the county pursuant to § ~~32-11-4.1~~
16 subdivision 32-11-4.1(3).

17 Section 6. The effective date of this Act is January 1, 2000.

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Transportation. S.J. 16

3 1/19/99 Scheduled for Committee hearing on this date.

4 1/19/99 Transportation Do Pass, Passed, AYES 7, NAYS 0. S.J. 114

5 1/20/99 Motion to Amend, Passed. S.J. 131

6 1/20/99 Senate Do Pass Amended, Passed, AYES 35, NAYS 0. S.J. 132

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

771C0074

SENATE LOCAL GOVERNMENT COMMITTEE ENGROSSED NO. **SB33** - 1/19/99

Introduced by: The Committee on Local Government at the request of the State Board of
Elections

1 FOR AN ACT ENTITLED, An Act to create a procedure for challenging certain nominating,
2 initiative, or referendum petitions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Within five business days after a nominating, initiative, or referendum petition is
5 filed with the appropriate officer, any interested person who has researched the signatures
6 contained on the petition may file an affidavit stating that the petition contains deficiencies as to
7 the number of signatures from persons who are eligible to sign the petition. The affidavit shall
8 include an itemized listing of the specific deficiencies in question.

9 Section 2. The appropriate officer shall verify the information contained in the affidavit filed
10 pursuant to section 1 of this Act and make a written declaration regarding the validity of the
11 signatures in question. The officer shall verify that each person was a registered voter at the time
12 the person signed the petition by using the registration documents on file in the office of the
13 county auditor.

14 Section 3. The person in charge of the election shall immediately notify by certified mail any
15 candidate whose nominating petition or any primary sponsor whose referendum or initiative

1 petition is rejected and declared invalid in accordance with this Act.

2 Section 4. If a person fails to challenge a petition pursuant to section 1 of this Act, it does
3 not deny that person any other legal remedy to challenge the filing of a nominating, initiative, or
4 referendum petition.

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Local Government. S.J. 21

3 1/16/99 Scheduled for Committee hearing on this date.

4 1/16/99 Local Government Do Pass Amended, Passed, AYES 6, NAYS 1. S.J. 58